IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7016 OF 2005

Dattatray Parshuram Patil & ors. ... Applicants
Versus.
The State of Maharashtra. ... Respondent.

Shri Amit Date for the Applicants.

Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 26th October, 2005.

P.C.:

1. Heard the learned Advocate appearing for the Applicants and the lerrned A.P.P. The Applicants are claiming anticipatory bail. On a private complaint filed by the Complainant alleging commission of offences under secion 420, 406, 409 of the Indian Penal Code read with section 146 of the Maharashtra Co-operative Societies Act, 1960, the learned Magistrate passed on an order unde section 156(3) of the Code of Criminal Procedure, 1973. The allegation of the Complainant seems to be that a pigmy agent appointed by the credit society of which the Applicant No.1 is the Manager and the other Applicants are Directors collected large amount from the complainant and the said amount was not reflected in the record maintained by the Credit society.

2. The learned A.P.P. pointed out that though the Applicants have attended the Police Station and the statements of the witnesses have been recorded. The original documents such as receipt book and the books of account of the credit sociey are not available and therefore, custodial interrogation of the Applicants is necessary.

3. Even from the report submitted by the Investigating Officer to the Sessions Court, it appears that the allegation of the Complainant is that it was the pigmy agent who collected amounts from the complainant and the said amounts were not deposited by him with the credit society. If this is the case of the prosecution, it is obvious that the custodial interrogation of the Applicants will not be necessary. However, the Applicants will have to cooperate for investigation and produce necessary documents from the records of the credit society.

4. Hence the following order is passed:

(i) In the event of the arrest of the Applicants in connection with Case No.106 of 2003 filed by Himmatlal Dhanji Shah in the Court of the Judicial Magistrate First Class, Pen, the Applicants shall be

enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.5,000/- each with one or two sureties.

(ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so and will cooperate for investigation.

(iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/ Investigating Agency. The Applicants shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicants only till charge sheet is filed.

Thereafter they will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.